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QUINE INTELLECTUAL PROPERTY LAW GROUP P.C.

By /stephen j leblanc/

Attorney Docket No. 313S-300811US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Luke P. Lee et al.

Application No.: 10/598,830

Filed: September 12, 2006

For: **METHOD AND APPARATUS FOR
INTEGRATED CELL HANDLING AND
MEASUREMENTS**

Confirmation No. 1961

Examiner: Unassigned

Art Unit: Unassigned

DECLARATION UNDER 37 C.F.R. 1.47 (a)
REGARDING JOINT INVENTORS WHO
REFUSE TO SIGN

COMMISSIONER FOR PATENTS
P.O. BOX 1450, ALEXANDRIA, VA

Dear Sir:

STATEMENT OF LAST KNOWN ADDRESS

(1) Pursuant to 37 C.F.R. 1.47 (a), the undersigned attorney of record hereby attests that the last known address of the inventor is as follows:

Luke P. Lee
5 Meadow Court
Orinda, California 94563

This is the last known address at which the inventor customarily receives or received mail and is the last known residence of the non-signing inventor. At the present time, no other addresses are known for the inventor.

STATEMENT OF PERTINENT FACTS AND CIRCUMSTANCES

(2) The facts regarding the attempt to have the inventor sign the declaration are as follows:

(a) Luke P. Lee was employed by the University of California as a Professor at the time the invention was conceived and up until the present.

(b) On June 15, 2009, I contacted Prof. Lee by email along with the other joint inventors and forwarded to them a copy of the application as filed and requested his signature on the inventor declaration. On July 9, 2009, I again contacted Prof. Lee by email and requested his signature on the inventor declaration. I did not receive any response to either of these emails.

(c) On September 17, 2009, I contacted Prof. Lee by email at his confirmed email address and forwarded him a copy of the application as filed (email attached) and requested his signature on the inventor declaration and made several follow-up telephone calls. **Professor Lee responded by email that because he has different views about inventorship, he would not cooperate.**

(d) In his email of September 17, 2009, Prof. Lee makes reference to earlier communications with me in which he asserted his position that he and Jeonggi Seo are the only inventors. During those earlier communications, both in person and by telephone, Prof. Lee stated unequivocally to me that he would not sign any inventor declarations if any additional joint inventors were listed. I explained to Professor Lee that under the standards for joint inventorship under 35 U.S.C. 116, I believed the inventors were properly listed as the claims included elements to which each of the listed inventors had contributed inventive concept. I also explained that the standards for joint inventorship under 35 U.S.C. 116 were different than those used for academic attribution. Professor Lee again stated unequivocally to me that he would not sign the declaration papers if they included joint inventors.

(e) I have reviewed the original disclosure documents and earlier patent applications that Prof. Lee had signed as a joint inventor with the other inventors listed on this application and I concluded after consultation with other joint inventors and after review of disclosure materials that the actual inventors as listed were correct given the best information available at this time. Inventorship will also be review upon claim amendments.

(f) The last communication with Prof. Lee was on 17 September 2009.

PROOF OF THE PERTINENT FACTS

(3) Attorney of Record showing that Luke P. Lee refuses to sign after diligent effort consists of the statements provided above, and of the attached document, which I attest are true copy of the original. The following document is attached hereto:

(a) Copy of emails dated 17 September 2009 as described above (Attachment A).

(4) Furthermore, assignee's showing that they have a right to take action in this matter is demonstrated by the following:

(b) Copy of signature pages of related PCT Patent Application PCT/US05/08349, which is a priority document for this application, signed by Luke P. Lee as joint applicants with the University of California dated 04-05-2004 (Attachment B).

SHOWING THAT SUCH ACTION IS NECESSARY TO PRESERVE THE RIGHTS OF THE PARTIES OR TO PREVENT IRREPARABLE DAMAGE

(4) The subject application discloses valuable research and innovation developed using facilities of the University of California and to which the University of California has ownership and/or other rights. Any delay in completing the filing of this application will damage the University of California's present opportunities and future rights to the inventions disclosed in this application. Therefore, acceptance of this petition is necessary to preserve the rights of University of California and/or to prevent irreparable damage to their interests in this invention.

(5) I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this statement is directed.

executed: 25 January 2010

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Respectfully submitted,

/stephen j leblanc/

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Attorney of Record